

## GAY MEN'S HEALTH CRISIS; Pro Bono Digest

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### **Body**

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Pro Bono Digest

WHEN STEVEN E. BING, a trusts and estates lawyer in private practice in New York City, began work as a volunteer lawyer at Gay Men's Health Crisis (GMHC) eight years ago, the Legal Services Department, started a year earlier, consisted of one staff attorney, an assistant and a few devoted volunteers. As a volunteer in those early days, Mr. Bing counseled persons with AIDS on estate planning matters. He continues with this work, training volunteer lawyers on estate planning issues and advising clients attending the GMHC Wills Clinic. If clients are unable to travel, Mr. Bing visits them at home and in hospitals. This is a real, hands-on way to assist persons with AIDS, says Mr. Bing.

Early on, GMHC recognized that the AIDS epidemic was raising legal issues as well as medical and social issues for its clients. As stated in the Legal Services Department program statement, People with AIDS required legal assistance to enable them to maintain control of their personal affairs, to get access to proper health care and to continue to live lives as complete and productive as possible.

#### **Surge in Number of Clients**

Today the GMHC legal services staff numbers 22 full-time staff members, 12 of whom are lawyers. Unfortunately, the number of persons in need of assistance has grown enormously. As of June 30, the reported AIDS cases in New York City numbered 52,918. An estimated 200,000 city residents are HIV positive. New York City residents account for 20 percent of the nation's AIDS cases, more than the number of AIDS cases in Los Angeles, San Francisco, Dallas and Washington, D.C., combined.

The GMHC Legal Services Department provided services on a wide range of legal matters to more than 2,700 clients during fiscal year 1993. Critical to this work is the commitment and dedication of more than 600 attorneys who have offered their services on a pro bono basis.

Randy S. Retkin has been the director of the GMHC Legal Services staff since 1991. In prior positions she served as assistant director of Volunteers of Legal Service (VOLS) and the director of the VOLS Legalization Project. She is a graduate of SUNY Buffalo and Howard University School of Law. Historically, she points out, the Legal Services Department was founded on the use of volunteers. Volunteer lawyers have played a pivotal role and always have been welcome. More and more attorneys

feel the need to do their part. Our clients are wonderful to work with. They have a sense of strength and dignity. They are young people, 20 to 40 years old, facing incredible odds.

Carol A. Vizzier, the pro bono coordinator/staff attorney at GMHC, served as a volunteer for two years before joining the staff of the Legal Services Department. Raised in Arkansas, she attended Haverford College and Cornell Law School. She then worked as a litigator at two law firms in the city. As a volunteer for GMHC, she assisted in the area of estate planning, traveling all over the city to advise homebound and hospital-based clients. Ms. Vizzier found the client contact to be wonderful. Lawyers can be so helpful, in solving problems, such as insurance, landlord/tenant or guardianship issues. Ms. Vizzier finds the work anything but depressing; rather, it is uplifting.

Volunteer lawyers are especially needed in the areas of health insurance; landlord/tenant and real estate; debtor's rights; estate planning, with a particular need for Spanish speaking lawyers; discrimination; litigation; and immigration. Volunteer lawyers who live or work in the Bronx are also needed. Each of these areas is discussed below.

### **Insurance**

GMHC assists clients who have been unfairly denied health, life or disability insurance; have had health or disability claims refused; have had insurance policies retroactively rescinded or have been unable to receive reimbursement for essential medications deemed experimental.

Once a week, Douglas J. Harrison, director of litigation at Hanover Insurance Co., counsels clients on insurance matters. He has been doing so for three years. The company with which he works issues insurance policies in the property and casualty field. When he began as a volunteer at GMHC, Mr. Harrison familiarized himself with health and disability legal issues, an example of a lawyer willing and able to learn a new field so that he can do pro bono work that he considers important.

Mr. Harrison sees three clients a week. He answers their insurance questions; reviews their policies, explaining the provisions; reviews correspondence with the insurance company, and, when necessary, negotiates with insurance companies on their behalf. Because of his experience in the insurance field, he understands the workings of claims departments and works effectively with claims adjusters.

Mr. Harrison had not done pro bono work before. I am finally using my law degree to help individuals in a situation where they can't help themselves. These people need an advocate. They find it difficult to advocate for themselves. It is enormously stressful for people with AIDS when their health or disability policy is challenged. I can help take some of the stress off the shoulders of clients.

Mr. Harrison described one young client with AIDS who had attended a leading law school and gone to work with a large law firm. As a result of his illness, the lawyer could not handle any paperwork relating to his own insurance claims. I thought to myself, said Mr. Harrison, this young man is the best of his generation. Now, because of this terrible illness, he needs help on the most basic matters.

Mr. Harrison urges that other lawyers familiar with insurance matters become involved with the work of GMHC, especially lawyers who work in the human resources field of corporations and those in law firms handling disability and health matters.

Mark Scherzer is in private practice, representing consumers in the health law field. He serves as an expert resource for volunteer lawyers and the GMHC legal staff. He also works with the GMHC Policy Department on drafting legislation and preparing testimony before government bodies. He conducts seminars for the GMHC Education Department on obtaining insurance, problems relating to these policies and planning decisions for clients changing jobs or going out on disability.

According to Mr. Scherzer, GMHC makes it easy to be a volunteer. There are clear limits on what a volunteer is expected to do. The place is well organized. The resources are there to get the job done. Volunteers are not set adrift. GMHC knows how to use volunteers. My personal and professional satisfactions from this work are tremendous.

### **Landlord, Real Estate**

Lawyers represent GMHC clients in housing matters by appearing in court where necessary and working with GMHC's financial advocacy staff, attempting to obtain New York City rental assistance subsidies. Clients are assisted who are unable to pay their rent, who have been unlawfully ejected from their residence or who are faced with eviction from rent-regulated apartments after the deaths of their non-marital partners. Clients are also represented in mortgage foreclosure proceedings.

Susan Erda is in private practice. She specializes in landlord/tenant matters, real estate and trusts and estates. For six years she has been a volunteer lawyer at GMHC, where she also serves on the advisory board to the Legal Services Department.

Ms. Erda represents clients with AIDS in nonpayment eviction cases and in mortgage foreclosure proceedings. Of her work at GMHC, she says, To keep someone in their home is, for me, one of the most satisfying experiences since I started practicing law. The clients are very appreciative when you do battle for them. For those who ever have had doubts about why they went to law school, this work restores your conviction that you made the right decision.

### **Debtor's Rights**

Staff and volunteer lawyers try to end harassment by creditors, often by communicating to them the futility of pursuing collection activities against clients who are supported only by non-attachable entitlements and, thus, judgment proof. Clients are also assisted in exploring bankruptcy options and, if deemed advisable, are referred to volunteer lawyers who will provide free assistance in filing bankruptcy petitions.

One such volunteer is Rebecca S. Levine whose practice includes bankruptcy, estate planning and real estate. At the suggestion of a friend, she started volunteering three years ago in the GMHC Wills Clinic and also representing clients in bankruptcy proceedings. Mrs. Levine, a widow, knows all about the stresses that accompany serious illness. My pro bono clients are wonderful, courageous people, she says. They are very realistic about their situation and ask the right questions. Without a doubt, AIDS is one of the country's major problems. It gives me great personal satisfaction to assist clients to deal with their debts resulting from this horrendous illness; to help make their illness less devastating, to help ease their concerns.

Bill Zwart, the Legislative Counsel to State Senator Franz Leichter, conducts a monthly debtor's rights session for clients. Topics covered include the legal process of debt collection; how to analyze your

own financial situation; which assets are exempt and which are not; and managing your own debt, including the option of bankruptcy. Mr. Zwart assisted in the preparation of the GMHC publication, *Debt Management for Persons With AIDS*. People with AIDS, he says, go through a difficult time. There is a feeling of helplessness when creditors are harassing you; a sense that creditors always have the upper hand, like cops coming to your front door and arresting you. Our clients need to know that debtors also have rights.

### **Estate Planning**

Wills Clinics, staffed by volunteer lawyers, are held four evenings a week, on Monday through Thursday, from 6 to 9. Clients are offered the opportunity of preparing a will, a general power of attorney, a health care proxy and a medical directive. If a client is non-ambulatory, a volunteer attorney will be sent to his home or hospital. Virtually all wills are prepared by volunteers.

Volunteer lawyers working in the Wills Clinic need not have a trusts and estates background. Each such volunteer goes through a three-hour orientation and training session. They then spend an evening with an experienced volunteer lawyer interviewing clients, following which they are ready to see clients.

Wills Clinics are held in English and Spanish. Spanish-speaking volunteer lawyers are very much needed, as are paralegals who can translate documents into Spanish or Creole.

Allan E. Kirstein is counsel to the law firm of Ira L. Slade. He specializes in trusts and estates, estate litigation and issues relating to charitable organizations. Mr. Kirstein has visited clients in fifth floor walkups and in hospital rooms. He has conducted estate planning training sessions for volunteer lawyers and revised GMHC estate planning forms. He also is the principal author of a GMHC publication, *Estate Administration: What to Do When a Loved One Dies*.

Also contributing to the publication are Ann Chusid of Goldberg, Gelman & Harnik and Mary Beth Ritger of Brown & Wood, both of whom are trusts and estates lawyers. The opening lines of the publication are eloquent and to the point: The death of a loved one is traumatic, and those close to the decedent are often overcome with emotion. Despite the grief, it is crucial that estate matters be attended to promptly.

It is a privilege, says Mr. Kirstein, to work at GMHC. The breadth and quality of its services are impressive, and the strength and courage of the clients I represent are an inspiration to me.

Faculty and students at Brooklyn Law School also participate in the Wills Clinic. According to Karen V. Comstock, public interest counselor at Brooklyn Law School, teams composed of one faculty member and two students are available to make home and hospital visits to non-ambulatory persons with AIDS living in Brooklyn. Ms. Comstock says that the project teaches, by example, the importance of pro bono work. Faculty and students work together as a team. The experience is educational and rewarding for both.

### **Discrimination**

GMHC assists clients in filing complaints of AIDS-related discrimination in housing, employment and public accommodations through the administrative processes of the New York State Division of Human Rights and the New York City Commission on Human Rights.

Marla Hassner is an attorney in private practice. She has represented AIDS clients in several discrimination cases. She states that despite public education on the issue, discrimination against people with HIV continues to be pervasive. My personal satisfaction in representing clients comes from the fact that I have been able to obtain favorable dispositions for my clients. Those able to return to work have done so, along with receiving monetary settlements. Those too ill to return, have received monetary settlements. These successes give clients a sense of self worth. This is very important to their mental and physical health.

## **Litigation**

GMHC calls upon law firms to assist with litigation. Weil, Gotshal & Manges is participating in this effort. As an example, Greg Antollino, a litigation associate at the firm, is working with Harris J. Yale, pro bono counsel at the firm, on a case involving a client with AIDS who is claiming wrongful termination of his health insurance policy. Significant medical bills were incurred. The insurance company contends that material misrepresentations were made on the insurance application. The lawyers at Weil Gotshal argue that this is a pretext by the company to avoid paying the insured's medical expenses. Mr. Yale looks forward to having Weil Gotshal represent additional GMHC clients on litigated matters.

Two special GMHC projects also need volunteer attorneys. The first is the Immigrants With HIV-Related Illness Project. Volunteer lawyers with immigration experience are encouraged to participate. On a regular basis, clients with immigration problems are seen in Elmhurst Hospital Center in Queens; Lutheran Medical Center in Sunset Park, Brooklyn; Haitian Centers Council in Brooklyn; Gouverneur Hospital on the Lower East Side in Manhattan; the Dominican Sisters in the South Bronx; and the South Brooklyn Health Center. The sites were selected because staff there provide services to large numbers of HIV-positive immigrants. Clients also regularly come to GMHC's office at 129 West 20th Street seeking legal assistance on immigration matters.

The second special project is the Bronx AIDS Services Technical Assistance Project devoted to the delivery of legal services to people with HIV-related illness in the Bronx. Attorneys living or practicing in the Bronx are encouraged to participate in this project. Legal assistance is needed in all the areas discussed in this article.

The legal needs of New Yorkers with AIDS or symptomatic HIV who reside in the city are great. The range of opportunities available for pro bono lawyers is considerable. Lawyers are encouraged to volunteer for the GMHC legal programs. To do so, write to Carol A. Vizzier, Pro Bono Coordinator/Staff Attorney, GMHC, 129 West 20th Street, New York, N.Y. 10011, or call her at (212) 337-3504.

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